

Central Administrative Tribunal
Principal Bench

O.A. No. 1275 of 1995:

New Delhi, dated this 29 September, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

Shri Hari Pal Singh (1082/Security),
S/o Shri Hira Singh,
R/o Vill. Alauda,
P.O. Bilaspur,
Dist. Bulandshahr (U.P.) ... Applicant

(By Advocate: Shri M.K. Gupta)

Versus

1. Commissioner of Police,
Police Headquarters,
I.P. Estates,
New Delhi-110002.
2. Addl. Commissioner of Police,
Northern Range, Police Hqrs.,
I.P. Estate, New Delhi.
3. Addl. Dy. Commissioner of Police,
Central Dist., Daryaganj,
Delhi. ... Respondents

(By Advocate: Shri Bhaskar Bhardwaj proxy
counsel for Shri Arun Bhardwaj)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns the Disciplinary Authority's order dated 16.4.94 (Annexure A-1) and the appellate order dated 21.3.95 (Annexure A-2).

2. Applicant and Constable Narender Pal were jointly proceeded against departmentally on the allegation that on the night of 15/16.11.92 while detailed for patrolling duty in Karol Bagh area, they

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stopped two persons namely Shri Kapil Sagar and Shri Lokesh Sharma for checking who were coming in a Maruti car. These two persons ^{had} ~~had~~ some verbal altercation with the two constables due to the rough language used by the latter, and subsequently the two constables physically assaulted the two men and ~~beat~~ ^{beat} them up badly.

3. Applicant and Const. Narendra Pal were suspended on 16.11.92, but their suspension was subsequently revoked on 2.11.93.

4. The I.O. in his findings held the charge as proved. Copies of the I.O.'s findings were supplied to applicant vide letter dated 8.2.94 for representation, if any. Applicant submitted his representation, which was considered by the Disciplinary Authority. Applicant was also given a personal hearing on 28.3.94. The Disciplinary Authority's impugned order records that applicant had nothing to state beyond what he had stated in his representation.

5. Agreeing with the findings of the I.O. the Disciplinary Authority by impugned order dated 16.4.94 imposed the penalty upon applicant of withholding 3

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increments with cumulative effect and treating the period of suspension as period not spent on duty, which has been upheld in appeal by impugned order dated 21.3.95.

6. We have heard applicant's counsel Shri M.K.Gupta and respondents' proxy counsel Shri Bhaskar Bhardwaj.

7. The first ground taken by Shri Gupta is that Kapil Sagar was not examined, in the D.E. which he contends is thereby vitiated. Kapil Sagar could not be examined because he was out of India at the time the D.E. was conducted, as per I.O's report, but merely because he was not examined does not vitiate the D.E. when the material particulars of the incident are corroborated by other witnesses. Hence this ground fails.

8. Shri Gupta has next urged that in the absence of supply of the Medical Certificate regarding the beating up of the men in the Maruti Car, it cannot be said that the charge is established. Here again material particulars of the incident are borne out by the testimony of the witnesses. Even if, as Shri Gupta

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contends, the two men in the Maruti car had consumed liquor, that cannot justify under any circumstance the conduct of the two constables, including applicant. Hence this ground also fails.

9. In this background Shri Gupta's third argument that the findings are perverse and that they display non-application of mind has no merit, and the ruling in 1986 (3) SCC 454 relied upon by him does not advance applicant's case.

10. No procedural infirmity in the conduct of the proceedings has been brought to our notice; the principles of natural justice has been strictly adhered to; and the impugned orders have been passed by the competent authorities.

11. The O.A., therefore, warrants no interference and is dismissed. No costs.

K.S.
(Kuldip Singh)

Member (J)

/GK/

S.R. Adige
(S.R. Adige)
Vice Chairman (A)